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### **RMS Contact Flyer**

Having trouble with completing posting requisitions? Need help with supplemental questions? Have a hard to fill vacancy? RMS is here for you! Our contact [flyer](#) has a breakdown of our teams and the agencies they serve. Please reach out to us with any questions you may have. Call us today!

### **Gathering Information Concerning Workplace Harassment**

As part of the commitment of ensuring fair and equal employment opportunities, DOHR is requesting that each agency provide information pertaining to workplace discrimination and harassment complaints for the period of August 1, 2013 through January 31, 2014. Click the links to find the [memorandum](#) and [summary sheet](#) for the information required for this analysis. The submission of the agency summary sheet has been extended to **Friday, April 4, 2014** to [Lesley.T.Farmer@tn.gov](mailto:Lesley.T.Farmer@tn.gov). Please contact Lesley Farmer at (615) 253-7685 for any questions or concerns.

### **Self-Identification Based on Disability**

As a reminder, effective March 24, 2014, you will be required to regularly invite employees to voluntarily self-identify as an individual with a disability. Please click [here](#) for more information. You may access the self-identification form at: [http://www.dol.gov/ofccp/regs/compliance/sec503/Voluntary\\_Self-Identification\\_of\\_Disability\\_CC-305\\_SD\\_Edit1.24.14.pdf](http://www.dol.gov/ofccp/regs/compliance/sec503/Voluntary_Self-Identification_of_Disability_CC-305_SD_Edit1.24.14.pdf). Contact Lesley Farmer at (615) 253-7685 or [Lesley.T.Farmer@tn.gov](mailto:Lesley.T.Farmer@tn.gov) for questions or concerns.

### **Is your agency embarking on any large projects in the classification/compensation area?**

To better assist you and to help expedite requests, the Class/Comp leadership team invites you to inform us in advance if you plan to undertake any large classification or compensation project(s). By "large", we mean one project that will involve 10 or more positions in your agency. Discussing large projects in advance of receiving request packages gives us the opportunity to address questions or concerns with your agency's project. Once we receive the official request and funding plan, our office will have a thorough understanding of what you are doing, making it a smoother and less time-consuming process.

Many of you already do this, and we really appreciate it. If this hasn't been your agency's practice, we'd like to encourage you to start doing this to help us help you.

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## Duty to Investigate and Take Appropriate Action

The Sixth Circuit U.S. Circuit Court of Appeals recently determined that failure to take appropriate remedial action for a gender-based hostile work environment claim was a violation under Title VII of the Civil Rights Act of 1964.

### Factual Background

A female employee was employed at an energy company in the transmission department. She was the only female employee and participated in the company's apprenticeship program that trained employees to become journeyman electrical workers. While in the program, her co-workers subjected her to derogatory and demeaning name-calling, isolation, and they ostracized her. She was also not allowed to go to the restroom and told she needed to "pee like a guy." On her first day, her supervisor told her he was going to "wash her out" of the program because it was not a job for a woman and he did not want women in the program. The employee was eventually dismissed from the program after making mistakes during an unexpected evaluation by members of the apprenticeship committee, which she felt was motivated by gender and aimed at pushing her out of the program. The employee made numerous complaints of harassment to her supervisor, a union representative, and the HR staff. Her complaints were not investigated and there was no formal reprimand of any of the co-workers. In response to the complaints, the company held a diversity training session, but the session did not include any discussion of sexual slurs, or sexual harassment.

The employee filed suit and was awarded compensatory and punitive damages, attorney fees and costs. The 6<sup>th</sup> Circuit upheld the decision, finding that the company's failure to respond demonstrated that the company condoned harassing behavior by its employees. The court further noted that conduct such as ignoring and ostracizing, when motivated by one of the protected classes, is a form of harassment.

### Professional takeaway

Employment-related complaints, such as harassment and discrimination complaints, can lead to liability and high costs if not handled efficiently and properly. When an employer receives a complaint, the employer should always take appropriate and prompt remedial action, including investigating the complaint and disciplining any offending employee. Here are six steps you can use to ensure your investigation process is effective:

- Watch for "triggers" that put you on notice of something that requires investigation (i.e. reports of wrongdoing).
- Use a standard process for reviewing and assessing complaints by considering factors such as severity, complexity, urgency, etc.
- Plan and assign an investigative team beforehand to take the necessary steps to discover and preserve evidence, being mindful of any privileges that may attach.
- Remember that each investigation is unique and the facts surrounding it dictate the procedural steps to be followed. Generally, the investigation will consist of a data and document review, interview process, analysis, and a written report of factual findings.
- After the investigation is complete, take the appropriate corrective action, and be consistent.
- Lastly, always follow up with the complainant and any other appropriate parties.

For more information on handling workplace investigations, please contact [Lesley.T.Farmer@tn.gov](mailto:Lesley.T.Farmer@tn.gov).

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